

Hearing on Motion to Lift
Automatic Stay:
June 9, 2022 at
9:30 a.m.

501 W. TENTH STREET, FORT WORTH, TX 76102-3643 BEFORE THE CLOSE OF BUSINESS ON MAY 27, 2022, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THIS CASE. ANY REPOSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE “ADEQUATELY PROTECTED” IF THE STAY IS TO BE CONTINUED.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW FREEDOMROAD FINANCIAL, a creditor in the above bankruptcy, complaining of Debtor and files its Motion for Relief from the Automatic Stay of 11 U.S.C. §362 to permit it to take possession of and to foreclose its interest in certain property described hereinbelow, and in support thereof would show the Court as follows:

1. A voluntary Petition commencing the above Bankruptcy case under Chapter 13 of the Bankruptcy Code was filed by Joe Bob Scroggins. This filing operated as a Stay against actions as specified in 11 U.S.C. §362.

2. FreedomRoad Financial is the holder of a secured claim against Debtor. A Contract and Certificate of Title create and perfect an interest in favor of FreedomRoad Financial on the property described in the Contract, namely: 2022 KTM 350 EXC-F dirt bike, VIN: VBKEXG409NM221177 (the “Collateral”).

3. The Collateral was impounded pre-petition and FreedomRoad Financial was required to pay the towing and storage fees to remove the Collateral from impound. The conduct of Debtor in abandoning the Collateral in violation under the terms of the Texas Motor Vehicle Retail Installment Contract, represents “cause” under 11 U.S.C. §362(d)(1) to lift the automatic stay as to the Collateral.

4. The above-referenced Collateral was recovered pre-petition on April 5, 2022 by FreedomRoad Financial after paying storage fees to release the Collateral, so that FreedomRoad

Financial may foreclose its security interest in same. FreedomRoad Financial would, therefore, assert that “cause” exists under 11 U.S.C. §362(d)(1) to modify the Automatic Stay to permit FreedomRoad Financial to retain possession of the Collateral and foreclose its interest in such Collateral.

5. The account is delinquent in the amount of \$12,638.19. Debtor has made only one payment since the loan’s inception on August 26, 2021.

6. FreedomRoad Financial has been unable to verify insurance coverage and believes that Debtor has no physical damage insurance on the Collateral as required by the Contract. Such lack of insurance coverage does not adequately protect FreedomRoad Financial’s security interest and represents “cause” to lift the stay.

7. If FreedomRoad Financial is not permitted to foreclose its interest in the above-described Collateral, it will suffer irreparable injury, loss and damage.

8. In the event FreedomRoad Financial exercises its rights to repossess and sell or otherwise liquidate the Collateral pursuant to an Order for Relief from Stay, FreedomRoad Financial requests the right to file an amended Proof of Claim for any deficiency balance remaining and that such balance be treated and paid as an unsecured claim under the existing Confirmed Plan, if any.

9. Further, FreedomRoad Financial would request the fourteen (14) day stay period otherwise imposed by Fed. R. Bankr. P. 4001 (a)(3) shall not be applicable to an Order granting Relief from Stay regarding the Collateral.

WHEREFORE, FreedomRoad Financial prays that, upon consideration of this Motion:

(1) The Automatic Stay of 11 U.S.C. §362 be modified to permit FreedomRoad Financial to retain possession of and to foreclose its interest in the Collateral described above;

- (2) The Court waive the provision of Rule 4001 (a)(3); and
- (3) FreedomRoad Financial be granted such other relief to which it may be entitled.

DATED May 13, 2022.

Respectfully submitted,

QUILLING, SELANDER, LOWNDS, WINSLETT &
MOSER, P.C.

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By: /s/ Patrick M. Lynch

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ATTORNEYS FOR MOVANT,
FREEDOMROAD FINANCIAL

NOTICE

Pursuant to Local Rule 4001(e), "Absent compelling circumstances, evidence presented at preliminary hearings in the Dallas and Fort Worth Divisions on motions for relief from the automatic stay will be by affidavit only. The party requesting the hearing must serve evidentiary affidavits at least seven days in advance of such hearing; the responding party must serve evidentiary affidavits at least forty-eight hours in advance of such hearing."

CERTIFICATE OF SERVICE

A true and correct copy of the Motion for Relief from the Automatic Stay was served upon the parties listed below by First Class Mail, postage prepaid, or by electronic filing notification, on May 13, 2022.

U.S. Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242

Christopher Marvin Lee, Esq.
Lee Law Firm, PLLC
8701 Bedford Euless Road, Suite 510
Hurst, TX 76053

Joe Bob Scroggins
1828 Lariat Drive
Justin, TX 76247

Tim Truman, Chapter 13 Trustee
6851 N.E. Loop 80, Suite 300
North Richland Hill, TX 76180

/s/ Patrick M. Lynch
Patrick M. Lynch

CERTIFICATE OF CONFERENCE

I hereby certify that prior to filing the foregoing Motion:

XX My office made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel; or

____ Debtor's Counsel failed to respond to my office's initial communication by the same time on the second business day after such communication. My office made at least one attempt to contact Debtor's counsel by phone.

Therefore, this Motion is presented to the Court for determination.

/s/ Patrick M. Lynch
Patrick M. Lynch